

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.)
PETER ROGAN,)
Defendant,) No. 02 C 3310
and)
410 MONTGOMERY, LLC, JERRY)
WHITLOW, individually and as Registered)
Agent of 410 MONTGOMERY, LLC,)
McCORKLE PEDIGO & JOHNSON, LLP,)
and DARBY BANK,)
Garnishees.)
)

**PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT AND GARNISHMENT ORDER**

The United States, by Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, moves for summary judgment against defendant Peter Rogan and garnishee 410 Montgomery, LLC pursuant to Federal Rule of Civil Procedure 56, on the grounds that there is no genuine issue of material fact and the United States is entitled to judgment as a matter of law for the following reasons: (1) over half the approximately \$4 million held in escrow is destined to be repaid to Rogan's trust; and (2) the balance escrow is destined for trusts in the names of Rogan's children. As a matter of law and equity, these are invalid trusts that should be disregarded and the entire \$4 million escrow should be subjected to a garnishment order.

The United States further moves for a garnishment order pursuant to 28 U.S.C. § 3205 of the Federal Debt Collection Procedure Act, requiring escrow agent Darby Bank to submit to the United

States \$4,004,243.21 plus accrued interest, which represents defendant's nonexempt interest in the 410 Montgomery, LLC proceeds held in escrow at Darby Bank.

In support of its motion, the United States submits a Local Rule 56.1 Statement of Facts with attached exhibits and Memorandum of Law in Support of its Motion for Summary Judgment. The United States seeks a judgment against 410 Montgomery, LLC regarding its claim to funds held in escrow at Darby Bank.

WHEREFORE, the United States moves for summary judgment and entry of a garnishment order directing the escrow agent, Darby Bank, to submit to the United States \$4,004,243.21 plus accrued interest, which represents the defendant's nonexempt interest in the funds held in escrow.

Respectfully submitted,

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